

# ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED COMPREHENSIVE UPDATE AND PERIODIC REVIEW OF THE CITY OF FORKS SHORELINE MASTER PROGRAM

SMP Submittal accepted January 19, 2022, Ordinance No. 656  
Prepared by Department of Ecology November 15, 2022

## INTRODUCTION

---

### Use of this Document

This document presents Findings and Conclusions that provide the factual basis for the Department of Ecology's (Ecology) decision on the City of Forks (City) comprehensively updated Shoreline Master Program (SMP) and periodic review. This document is divided into three sections: **Findings of Fact**, which provides findings related to the County's proposed amendment, amendment history, and the review process; **Conclusions of Law**; and **Ecology's Decision and Effective Date** of the amendment.

### Brief Description of Proposed Amendment

The City of Forks has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The City has locally adopted the final state approved comprehensively updated Clallam County Shoreline Master Program (2021) to serve as the City's master program and relies on many of the same background technical documents. The City's adoption of the Clallam County SMP is referenced in the new Chapter 25 of Title 14 of the Forks Municipal Code (FMC 14.25) and is applicable to all qualifying shorelines, shorelands (including associated wetlands, floodways, and the full extent of the 100-year floodplain), and shorelines of statewide significance located within the City of Forks.

The submitted SMP is intended to satisfy the statutory requirements of RCW 90.58.080(2)(a)(i) to comprehensively update the City's SMP and the City's obligation to do a periodic review, pursuant to RCW 90.58.080(4)(b)(i).

Forks is a small city in southwest corner of Clallam County on Highway 101. The updated master program will regulate approximately 2 miles of freshwater shoreline located within the City of Forks along portions of the Bogachiel River, Calawah River, Elk Creek, and Mill Creek. Shorelines located in the Forks UGA (FUGA) and surrounding areas of WRIA 20 are managed by Clallam County.

The master program contains locally tailored shoreline management policies, regulations, environment designation maps, and administrative provisions, as well as shoreline-specific critical areas provisions. Additional reports, and supporting information and analyses as noted throughout this document, were considered by Ecology during its review.

As a result of delays in completing the County's comprehensive update, the final stages of the City's comprehensive update process occurred close to the statutory deadline for periodic review. Forks is required on or before June 30, 2020, and every eight years thereafter, to review, and if necessary revise, their master program. The proposed amendment includes provisions to address this requirement.

## FINDINGS OF FACT

---

### Need for Amendment

The City of Forks currently manages shorelines under the Clallam County SMP originally approved in 1976, last amended in 1992. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The update also ensures the SMP is consistent with land use management policies provided by the City's Comprehensive Plan and environmental protections provided by the City's Critical Areas Code.

The City's adoption of the Clallam County SMP (2021) will entirely replace its 1976 program. The City actively participated in the County SMP update process for WRIA 20, conducted local actions for public participation, and prepared additional Forks-specific supplemental materials. The record submitted by the City to Ecology, including Ordinance No. 656, staff memos, reports, and other local approval materials, provides additional details regarding the City's SMP adoption process.

### SMP provisions to be changed by the amendment as proposed

The SMP comprehensive update is intended to entirely replace the City's existing SMP, including policies, regulations, the shoreline environment designations & maps, and administrative provisions. The updated SMP regulates activities and development along the City's shorelines using three (3) of the County's six shoreline environment designations, each containing designation criteria, purpose statements, and management policies:

- Aquatic
- Shoreline Residential - Conservancy
- Shoreline Residential - Intensive

The proposed SMP uses these designations to tailor use and development allowance, prohibition, and other provisions based on shoreline conditions, as indicated at SMP 2.9 in Table 2-1 Residential Use Table and Table 2-2 Non-Residential Use Table. The updated SMP establishes standard shoreline buffers based on type of development, size of the lot, and the upland shoreline designation (SMP 6.3 Table 6-1) and regulates critical areas within shoreline jurisdiction with provisions of the SMP, including critical area buffers (SMP 6.3 Table 6-2).

### Amendment History, Local Review Process

#### Comprehensive Update

The City initiated the local planning process in January 2010 by entering into a grant agreement with Ecology (#G1000042). The City was an active participant in the County's SMP Update effort, many of the technical background documents were prepared jointly, and the City took additional actions specific to City of Forks. City staff reviewed and stayed abreast of the County's many draft versions including Preliminary Drafts (2010 - 2013), Revised Draft (2014), Planning Commission Revised Draft and later Recommended Draft (2017), and Board of County Commissioner's (BoCC) locally approved (2018), and final locally adopted SMP (2021).

The record shows that extensive public outreach and engagement began early and was continuous throughout the process. All City and County public meetings and events, and occasional project status updates, were broadly disseminated via the City and/or County website, display/legal ads in the *Forks Forum* and other area

newspapers, presentation to local civic organizations, messages to an extensive interested parties email list, and direct mail to shoreline property owners of record.

Affected tribes were on distribution lists, and involved in the County/City committees and outreach groups. Tribal representatives were part of the County's No Net Loss Work Group, and natural resources/fisheries staff from the Quileute, Lower Elwha Klallam, Jamestown S'Klallam and Makah Tribes participated as representatives on the SMP Update Committee.

Overall, as part of the County SMP Update, interested parties and stakeholders to the City SMP Update had opportunities to participate in some forty (40) County Planning Commission meetings (2011 - 2017) and more than twenty (20) Board of County Commissioner meetings (2017 - 2021).

#### Periodic Review

As part of the City's periodic review effort, local actions included the following:

The City continued to implement the previously prepared public participation program to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines, in accordance with WAC 173-26-090(3)(a).

The City used Ecology's checklist of legislative and rule amendments to review amendments to Chapter 90.58 RCW and department guidelines that have occurred since 2007 and determine if additional SMP amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remained consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any SMP amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii).

No amendments to the Clallam County SMP were proposed as a result of the City's periodic review.

The City held another public comment period from June 17 to 28, 2021, and conducted a public hearing on June 28, 2021 in accordance with WAC 173-26-100(1). The City provided notice to stakeholders and interested parties. An affidavit of publication provided by the City indicates that notice of the hearing was published twice on June 17 and 24, 2021 in the *Forks Forum* newspaper. Two (2) verbal testimonies were received (1 individual; and Quileute Tribe) indicating support for the City's adoption of the Clallam SMP; no written comments were received.

#### Overall Amendment Timeline

This has been a lengthy project. The general timeline below with key highlights summarizes the local process:

##### 2010

August - City adopted Resolution No. 389 committing to active collaboration with and participation in the concurrent Clallam County SMP Update process, including the *Public Participation Strategy*, and establishing intent to adopt the County's SMP as the City's SMP.

September - City extended an existing agreement with University of Washington's Olympic Natural Resources Center (ONRC) to provide technical consulting assistance.

October - City co-hosted a *WRIA 20 Visioning Forum* with the County and ONRC for project scoping.

##### 2010 to 2017

City co-hosted six (6) *Public Forum* open house events focused on shorelines in the City limits and FUGA portions of WRIA 20, as part of the broader series conducted by the County, to inform the public of project status, gather input, and to present various draft documents during the multi-step update process.

#### 2011

January - City co-hosted a *WRIA 20 Stakeholder Focus Group*, and helped conduct a *WRIA 20 Stakeholder Survey* with nine (9) individual *Stakeholder Interviews* for input from a variety of interests, including property owners, recreation, forest practices, and conservation.

June - ONRC prepared a *WRIA 20 Visioning Forum and Interview Report* to summarize the process and findings; and conducted *Riparian Photo Survey* field work.

July - *Consistency Review* compared the County SMP to the State requirements to identify conflicts, gaps, omissions, and recommendations.

#### 2012

April - City Planning Commission prepared an FUGA shoreline environment designations proposal for the County Planning Commission regarding shorelines within the City and FUGA shorelines that could be annexed.

May - ONRC prepared the *WRIA 20 Inventory & Characterization Report* (ICR) for shorelines of the state in the City and FUGA. ONRC prepared the *City of Forks Visual Shoreline Catalogue* online interactive map as a WRIA 20 ICR Supplement. The collection of geo-referenced photos is a resource for applicants and practitioners to support SMP implementation and future amendments.

#### 2011 to 2013

City staff participated in the County's *SMP Update Committee* that met thirteen (13) times to provide input on iterative draft versions of the SMP and other supporting technical documents (i.e. consistency review report, shoreline inventory and characterization report, visioning reports, and shoreline restoration plan).

#### 2015

February - City co-hosted a County Planning Commission WRIA 20 public hearing for comments on a November 2014 Draft SMP.

#### 2017

June - County's *Final Cumulative Impacts Analysis and No Net Loss Report* (CIA-NNL) includes analysis of SMP provisions applicable to City and FUGA shorelines, and recognizes the City's *Visual Shoreline Catalogue* as a tool that can help qualitatively track changes in shoreline conditions over time.

September – After lengthy deliberations, County Planning Commission took action to recommend Board approval of their final Draft SMP.

December – Building on the County's previously issued SEPA Environmental Checklist, Non-Project Supplement, and Determination of Non-Significance (DNS), City issued a companion DNS to concur with the findings and invite comment specific to the Forks SMP Update. City filed a GMA 60-Day Notice of Intent to Adopt with the Department of Commerce.

#### 2018

April - With County's SMP local approval imminent, City Council held a public comment period from April 5 to 23, 2018, and conducted a public hearing on April 23, 2018.

- The City provided notice to stakeholders and interested parties. An affidavit of publication provided by the City indicates that notice of the hearing was published on April 5, 2018 in the *Forks Forum*.
- Three (3) verbal testimonies were received (2 individuals; and Quileute Tribe) seeking clarification about mitigation, adoption timeline, and final revisions to channel migration zone provisions; no written comments were received.

October - County locally approved (Resolution No. 91) a comprehensively updated SMP for Ecology submittal and State review.

At this time, due to delays in the County SMP state review process, the City paused its work on the SMP update. City staff continued to provide status briefings at City Planning Commission and City Council public meetings. Project efforts resumed in 2020.

#### 2020

May - City reinitiated the local adoption process by entering into a grant agreement with Ecology (SEASMP-19219-Forks-00083). Ecology and the City agreed that the statutory obligation to periodically review the SMP could be incorporated into the comprehensive update process.

December – City hired a consultant (The Watershed Company) to assist with remaining tasks.

#### 2021

March - Ecology issued a conditional approval on the Clallam County SMP.

May - City adopted Resolution No. 497 reaffirming intent to adopt the comprehensively updated Clallam County SMP.

June - The Watershed Company prepared a draft *City of Forks Shoreline Restoration Plan* (finalized October 2021) to supplement the Final Countywide Restoration Plan (2016) as an addendum that provides greater details for shorelines in the City, FUGA, and other nearby areas of the County where restoration actions would benefit City shorelines. City prepared the required Periodic Review Checklist to document its review and analysis of the presumed final version Clallam SMP, anticipated to include all of Ecology's required & recommended changes. With County's SMP final adoption imminent, City Council conducted another public hearing.

July - The County adopted their SMP with all of Ecology's changes (Ordinance 972).

August - Ecology issued final approval on the Clallam County SMP.

The City consulted with Ecology and solicited comments throughout the review process. In addition to County draft materials reviewed by Ecology, the City shared drafts in April 2010 (preliminary jurisdiction map), September 2015 (Visual Shoreline Catalogue), and June 2021 (Forks Restoration Plan) for Ecology review and feedback.

#### Local Adoption and Submittal to Ecology

On October 11, 2021, the City Council passed Ordinance No. 656, adopting the final state approved Clallam County SMP as the City's SMP for application to qualifying shorelines within city limits. The final state approved Clallam County SMP adopted by the City includes all the changes proposed by Ecology's March 2021 Conditional Approval as acknowledge in Ecology's August 18, 2021, Clallam County SMP final approval letter. According to Ordinance No. 656, the City will also enter into an interlocal agreement or similar legal agreement, with Clallam County, for SMP implementation, including review of proposed shoreline projects, exemptions, shoreline substantial development, shoreline conditional use, and shoreline variance permits. Ordinance No. 656 also authorized staff to forward the proposed SMP to Ecology for formal approval.

#### Department of Ecology Review Process

The proposed SMP comprehensive update and periodic review was received by Ecology for state review on December 30, 2021. Ecology is required to determine if SMP submittals are complete and in compliance with WAC 173-26-100 and 110. The submittal was verified complete by Ecology on January 19, 2022.

Pursuant to WAC 173-26-100 and -110, City of Forks has satisfied the submittal requirements for a comprehensive SMP update and periodic review as indicated below:

- A signed Ordinance was provided to Ecology that indicated the City's approval of the proposed SMP with the adoption of Ordinance No. 656 on October 11, 2021 (WAC 173-26-110(1) & WAC 173-26-100(7));
- This comprehensive SMP update and periodic review is intended to entirely replace the City's existing SMP (WAC 173-26-110(2));
- Updated shoreline environment designation maps were submitted to Ecology (WAC 173-26-110(3));
- Materials summarizing the update and review process were provided to Ecology (WAC 173-26-110(4));
- Evidence of compliance with the State Environmental Policy Act (SEPA) was provided to Ecology including a Determination of Nonsignificance issued by the City on December 8, 2017, along with a completed Environmental Checklist (WAC 173-26-110(5) & WAC 173-26-100(6));
- Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 was provided to Ecology (WAC 173-26-110(6));
- The City provided numerous opportunities for public and Ecology review and comment throughout the SMP update and periodic review effort between 2010 and 2021. Notice of public hearings before the Planning Commission and City Council were duly advertised in the *Peninsula Daily News* and/or *Forks Forum* newspapers and the hearings held on February 12, 2015, April 23, 2018, and June 28, 2021. (WAC 173-26-110(7) & WAC 173-26-100(1-3));
- The County solicited comments on the draft SMP from Ecology as part of the 2010-2021 local process (WAC 173-26-110(5));
- The completed SMP submittal checklist and periodic review checklist were both provided to Ecology (WAC 173-26-110(9) and WAC 173-26-090(3)(b)(i));
- Copies of the shoreline inventory and characterization report, shoreline restoration plan, and cumulative impacts analysis were submitted to Ecology (WAC 173-26-110(10)).

#### Ecology Public Comment Period

Ecology held a public comment period from February 7 to March 10, 2022, at 5 p.m. Interested parties were notified using mail and email. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on January 31, 2022 in compliance with the requirements of WAC 173-26-120. Five (5) tribal governments were individually and specifically notified and invited to comment: the Jamestown S'Klallam, Lower Elwha Klallam, Makah, Port Gamble S'Klallam, and Quileute. This notice identified that the SMP amendment is intended to satisfy the state statutory requirements of RCW 90.58.080 to comprehensively update and periodically review the City's SMP via adoption of the Clallam County SMP, including amendments to satisfy the periodic review requirement. Notice of the comment period, including a description of the proposed SMP and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views, was also provided on Ecology's [website](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Forks)<sup>1</sup>. All interested parties were invited to provide comment on the proposed update during this public comment period. No public hearing was held during the state comment period. No written comments were received.

#### Consistency Review

Ecology reviewed the proposed SMP for consistency with the Shoreline Management Act and applicable guidelines. Components of the City's submittal package that Ecology previously reviewed and approved as part

---

<sup>1</sup> <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/State-approved-Shoreline-Master-Programs/Forks>



of the Clallam County SMP update include: Public Participation Plan; Consistency Review; WRIA 20 ICR; Countywide Shoreline Restoration Plan; and Cumulative Impacts Analysis and No Net Loss Report. Ecology took final action to approve the Clallam County SMP comprehensive update on August 18, 202. The City's submittal includes County-prepared documents and additional Forks-specific supplements, as described below.

#### *Inventory and Characterization (WAC 173-26-201)*

Documentation of current shoreline conditions is a key part of the SMP development process and meeting the requirement to address the no net loss standard of the SMP Guidelines (WAC 173-26-186). The City submitted the WRIA 20 ICR (2012) and Forks Visual Shoreline Catalogue (2012) supplement to satisfy this requirement. The report and catalogue document existing shoreline conditions and helped inform development of the updated SMP, including environment designations, policies and use regulations. The following summarizes existing conditions for City of Forks' shorelines, based on evaluation of reaches located in WRIA 20 and the Forks UGA.

Overall, WRIA 20 is lightly populated, continues to support healthy salmon runs, and represents one of the most productive and functional ecosystems as compared with conditions in other parts of the state. Impacts are more evident in the lowland reaches of WRIA 20 rivers where it is more common to find narrow buffers along residential developments. Still shoreline uses in WRIA 20 have not caused significant impairment of ecological functions. Riparian vegetation in WRIA 20 is among the least impaired in western Washington; riparian zones are well stocked with trees with 82.5% of riparian zone within SMP jurisdiction identified as closed canopy. Little evidence of major disruptions of hydrologic functions was identified in WRIA 20 shorelines. Some 34 sites were listed on Ecology's 303(d) list, mostly for temperature exceedances due to seasonal flows, as well as limited instances of fecal, dissolved oxygen, and pH exceedances. Bank armoring has been done in very few places and residential development has traditionally focused on areas that are outside channel migration zones and flood plains. WRIA 20 habitat conditions are generally healthy and functional. Wild salmon have been described as keystone species and depend on sufficient pools and riffles, velocity control structures, nutrients, off channel rearing habitat, and clean spawning gravel. While run sizes are dramatically lower than historical numbers, almost all of the salmon stocks in WRIA 20 are considered healthy, including Calawah and Bogachiel summer Chinook. One of the greatest habitat concerns in WRIA 20 is invasive weeds, especially Japanese knotweed, a tall exotic that outcompetes and displaces native plants including tree saplings and results in functionally unshaded river edges and choked channels.

While the WRIA 20 ICR evaluates shorelines located in the Forks UGA and greater WRIA 20 area, the extent of shorelines within the City of Forks' shoreline jurisdiction is more limited:

- **BOGACHIEL RIVER** – The river itself does not pass through the city and forms the southwest boundary of the UGA, but its associated wetlands extend north into the southwest corner of City limits;
- **MILL CREEK** – Only the last portion of the creek before its confluence with the Bogachiel meets the 20 cfs minimum annual flow standard, and only a small upper portion of that is located within City limits, including associated wetlands;
- **CALAWAH RIVER** – As the largest tributary of the Bogachiel River, the Calawah River is formed by the confluence of its north and south forks, which both originate in the Olympic Mountains. Approximately 1 mile of the main stem (part of reach 'Calawah 20') passes through the Forks UGA, forming its northeastern boundary, but just three short segments are located within City limits;
- **ELK CREEK** – A tributary to the Calawah located east of the City, a small segment passes through City limits at its eastern boundary.



As a supplement to the WRIA 20 ICR, the City and ONRC conducted field work in 2011 for a riparian photo-survey and prepared the City of Forks Visual Shoreline Catalogue (2012), first presented as an online interactive map and later as a print version in 2016.

The Catalogue creates a permanent visual record of the existing conditions of shorelines of the state when undertaken, with the presumption that there would not be significant changes between inventory and adoption. The Visual Shoreline Catalogue helps ensure that a visual record exists to assist review of development proposals, to compare against in future SMP amendments, and allow property owners, regulators, and researchers to use as future needs or opportunities emerge.

***Finding:*** Ecology finds that the WRIA 20 Inventory & Characterization Report with photo catalogue supplement adequately inventoried and analyzed the current conditions of the shorelines located in City of Forks. The reports synthesized existing information and were used to inform the master program update as well as provide a basis for future protection and restoration opportunities in City shoreline jurisdiction (WAC 173-26-201(3)(c) and (d)(1)).

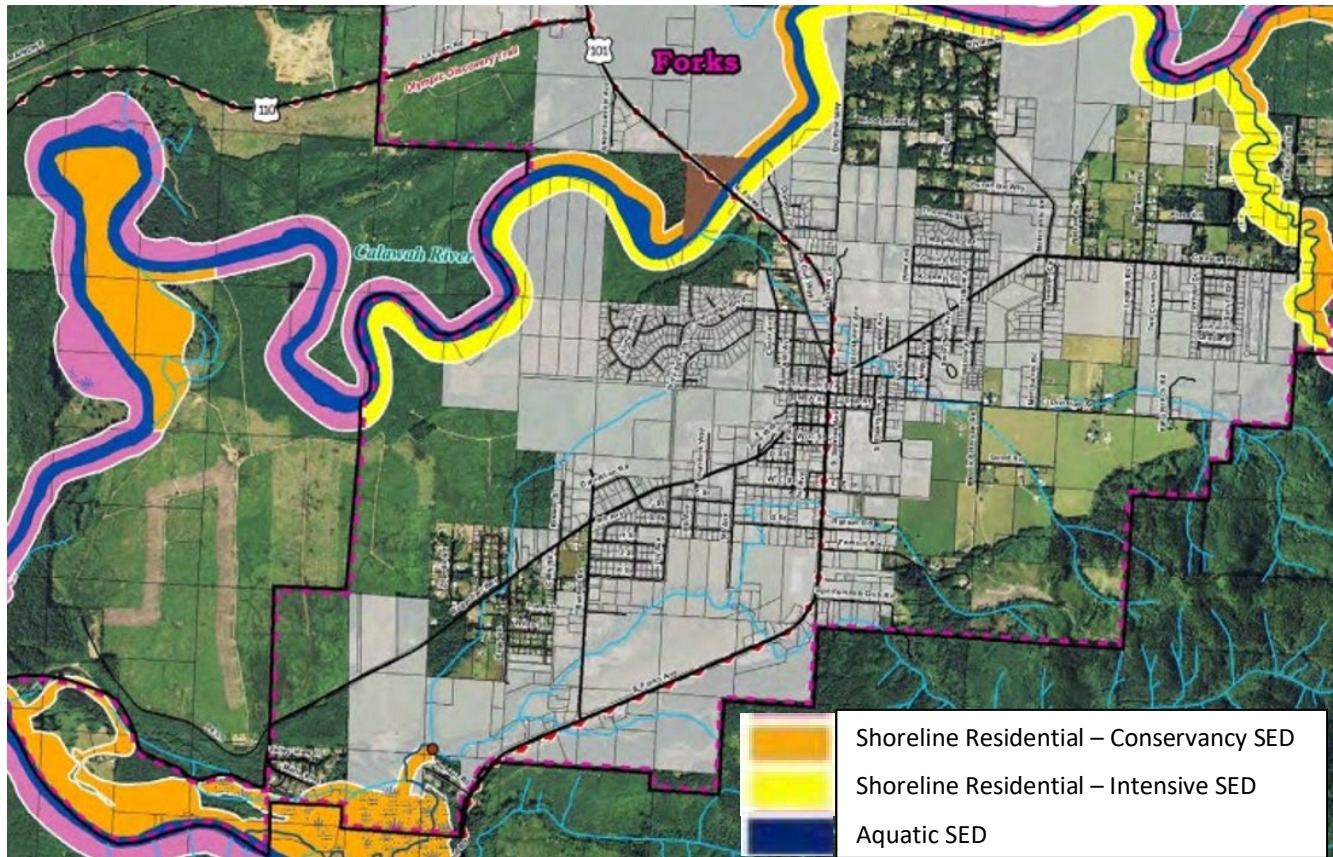
#### [\*Shoreline Jurisdiction and Shoreline Environment Designations \(WAC 173-26-211\)\*](#)

The extent of shoreline jurisdiction is defined in RCW 90.58.030(2). The updated SMP establishes the maximum jurisdiction allowed by statute, including the optional full extent of the 100-year floodplain and land necessary for buffers for critical areas that occur within shorelines of the state. SMP 1.8 Jurisdictional Limits provides the detailed description. SMP Exhibit B lists jurisdictional shorelines of the state, consistent with WAC 173-18-044 and WAC 173-22-044.

Local governments are required to classify shoreline areas into shoreline environment designations (SEDs) based on the existing use pattern, biological and physical character of the shoreline, and the goals and aspirations of the community as expressed in their comprehensive plan. The Inventory and Characterization Report is used to determine the relative degree of impairment and biophysical capabilities and limitations for individual shoreline reaches. Based on this assessment, along with consideration of anticipated future development, zoning and other regulatory overlays, local jurisdictions may apply the designation criteria provided in WAC 173-26-211 or develop their own tailored designation criteria.

The updated County SMP establish six (6) SEDs: Aquatic; Natural; Resource Conservancy; both Shoreline Residential-Conservancy and Shoreline Residential-Intensive; and Marine Waterfront, primarily based on the designation criteria established by WAC 173-26-211 with some local tailoring to the names and applicability, including two versions Shoreline Residential to address differing density and intensity of residential uses. For shorelines located in the City of Forks, only three of the SEDs apply: either Shoreline Residential – Conservancy or Shoreline Residential – Intensive in the uplands, and Aquatic for in-water areas.





SMP Chapter 2 Shoreline Environment Designations describes the designation criteria, a purpose statement, and a set of management policies for each as follows: SMP 2.3 Aquatic; SMP 2.6 Shoreline Residential-Conservancy; and SMP 2.7 Shoreline Residential-Intensive.

Consistent with WAC 173-26-211(4)(iv)(A), the updated SMP 2.9 Allowed Use Table 2-1 Residential Development and Table 2-2 Non-Residential Uses identify the different types of shoreline activities that are permitted, conditionally permitted, and prohibited in each shoreline environment.

The mapped designations, illustrated in SMP Exhibit A Shoreline Environment Designations, are based upon and implement the designation criteria provided in SMP Chapter 2.

**Finding:** Ecology finds that the updated SMP defines shoreline jurisdiction consistent with the Act and the record sufficiently documents the basis for assigning shoreline environment designations. The City's shorelines are adequately identified in SMP Section 1.8 Jurisdictional Limits, mapped in the Exhibit A Shoreline Environment Designations maps at Map #34, and listed in Exhibit B List of SMP Waterbodies. Shoreline designations are adequately identified in SMP Chapter 2 and in the Exhibit A Shoreline Environment Designations maps at Map #34. Ecology finds that for each environment designation the SMP includes a purpose statement, designation criteria, management policies, and regulations as required by WAC 173-26-211(4)(a).

#### [General Master Program Provisions \(WAC 173-26-221\)](#)

The SMP Guidelines in WAC 173-26-221 list general provisions that are intended to apply broadly to all of types of shoreline development regulated by master programs, including the following subsections: (1)

Archaeological and Historic Resources; (2) Critical Areas; (3) Flood Hazard Reduction; (4) Public Access; (5) Shoreline Vegetation Conservation; and (6) Water Quality, Stormwater and Nonpoint Pollution.

In addition, WAC 173-26-191 requires SMP contents to address elements including, but not limited to, economic development, public access, conservation, historical, cultural, scientific and educational values, and flood damage. WAC 173-26-201 requires SMPs to ensure 'at minimum, no net loss of shoreline ecological functions necessary to sustain shoreline natural resources'. The updated SMP Chapters 5 through 8 include the following general provisions:

[5.2 Clearing, Grading and Filling](#) Policies at 5.2.1 and Regulations at 5.2.2 help conserve shoreline vegetation by setting standards that limit vegetation removal and minimize adverse impacts including stormwater pollution.

[5.3 Public Access](#) Policies at 5.3.1 and Regulations at 5.3.2 set standards to ensure the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Select provisions focus on balancing access with ecological protection and property rights, maintaining, improving and expanding existing views and facilities, and providing new access opportunities, as well as encouraging collaboration with State Parks and other public land owners.

[5.4 Water Quality and Water Management](#) Policies at 5.4.1 and Regulations at 5.4.2 set standards to address the physical, chemical, and biological condition of water resources for human use, drinking water and recreation, fish and shellfish. Provisions limit pollution from direct discharge, stormwater, chemical use, erosion, septic systems, industry, and building materials such as treated wood.

[5.5 Archaeological, Historical, and Cultural Resources](#) Policies at 5.5.1 and Regulations at 5.5.2 set minimum standards for site inspection at locations with known resources, and for stop work upon inadvertent discovery, and establish additional provisions to protect known sites/resources.

[6 Shoreline Buffers and Vegetation Conservation](#) Policies at 6.2 and Regulations at 6.3 General, 6.4 Shoreline Buffer Averaging, 6.5 Shoreline Buffer Clearing, 6.6 Development Allowed in the Buffer, and 6.7 View Protection Common Line Buffer set standards for vegetation conservation to protect people and property from natural hazards and to protect shoreline ecological resources from the impacts of human activities. When multiple shoreline and/or critical area buffers are contiguous or overlapping, the landward-most edge of all such buffers applies.

[7 Critical Areas within Shoreline Jurisdiction](#) General Policies at 7.2 and General Regulations at 7.3 set standards for protection of shoreline critical areas, including critical freshwater and critical saltwater habitats; these provisions are separate from both the City's critical areas ordinance (FMC 14.15 and 14.20) and the County's critical areas ordinance (CCC 27.12). Additional designation, delineation, mapping, buffer, and protection standard regulations for wetlands, Aquatic Habitat Conservation Areas, Class I & II Terrestrial Habitat Conservation Areas, Geologically Hazardous Areas, Frequently Flooded Areas, and Critical Aquifer Recharge Areas are provided in this section.

These provisions ensure the City's shoreline critical areas are protected to achieve no net loss of shoreline ecological functions. The regulations include allowances to adjust the standard buffer width through various mechanisms such as buffer averaging or buffer reduction without a shoreline variance, when site-specific conditions meet certain criteria.

[8 Mitigation and No Net Loss](#) Policies at 8.2, General Mitigation Requirement Regulations at 8.3, Compensatory Mitigation Plan Content Regulations at 8.4, and critical area-specific Mitigation Plan Regulations as follows: 8.5 Wetlands; 8.6 Aquatic and Wildlife Habitat Conservation Areas; 8.7 Frequently Flooded Areas; and 8.8 Critical

Aquifer Recharge Areas. Collectively these provisions establish requirements for NNL of ecological function, mitigation sequencing, and evaluation of cumulative impacts.

**Finding:** Ecology finds that the general policies and regulations are consistent with WAC 173-26-221.

#### *Shoreline Modifications (WAC 173-26-231)*

The SMP Guidelines in WAC 173-26-231 define “shoreline modifications” as: “generally related to construction of physical elements such as a pier, floating structure, shoreline stabilization, dredged basin, or fill” and WAC 173-26-231(2)(b) establishes a general principle that master programs should: “Reduce the adverse effects of shoreline modifications, and as much as possible, limit shoreline modifications in number and extent.” These shoreline modification principles and standards contained in WAC 173-26-231 are reinforced through associated requirements for mitigation sequencing (WAC 173-26-201(2)(e) and the no net loss of shoreline ecological function standard (WAC 173-26-186) noted above.

The updated SMP regulates shoreline modifications in SMP Chapter 4 including the policies and regulations of 4.1 Beach Access Structures; 4.2 Boating Facilities and Moorage; 4.3 Dredging and Dredge material Disposal; 4.4 Flood Hazard Management and Flood Control Structures; 4.5 In-stream and In-water Structures; and 4.6 Shoreline Stabilization. The SMP addresses both boating facilities per WAC 173-26-241(3)(c) and piers and docks per WAC 173-26-231(3)(b) collectively as Chapter 4.2 Boating Facilities and Moorage, including non-residential and those accessory to residential development.

**Finding:** Ecology finds that the shoreline modification policies and regulations are consistent with WAC 173-26-231.

#### *Shoreline Use Provisions (WAC 173-26-241)*

The SMP Guidelines in WAC 173-26-241 are intended to both recognize existing uses and ensure that future development will be appropriately managed consistent with the underlying policies of the SMA. Avoidance of use conflicts through coordinated planning and recognition of “preferred” shoreline uses is a primary tenant of the SMA (RCW 90.58.020). Updates to local SMPs are intended to support these goals through development of appropriate master program provisions, based on the type and scale of future shoreline development anticipated within a particular jurisdiction.

Consistent with WAC 173-26-186(5), the updated SMP reflects the principle that the regulation of private property needs to be consistent with all relevant constitutional and other legal limitations. The updated SMP varies the allowed uses within each SED depending on the current level of impairment of shoreline functions. This is based on the inventory and characterization, existing land use patterns, and use preferences. No Net Loss and Mitigation Sequencing requirements are contained in SMP Chapter 8, described above.

The updated SMP provides context and regulates specific types of shoreline use with the Applicability, Policy, Regulation, and Application Requirement provisions of SMP Chapter 3, including:

- |   |                     |
|---|---------------------|
| 3.1 Agriculture                           | 3.7 Recreation      |
| 3.2 Aquaculture                           | 3.8 Residential     |
| 3.3 Commercial and Industrial Development | 3.9 Restoration     |
| 3.4 Forest Practices                      | 3.10 Signs          |
| 3.5 Mining                                | 3.11 Transportation |
| 3.6 Parking                               | 3.12 Utilities      |

Preferred uses, other priority uses, and property rights are explicitly addressed by these provisions:



- 3.2.1 Aquaculture Policy #1;
- 3.3.1 Commercial & Industrial Policy #2;
- 3.3.2 Commercial & Industrial Regulation #8;
- 3.7.1 Recreation Policies #1 and 2; and
- 3.7.2 Recreation Regulations #10 and 14

**Finding:** Ecology finds that the updated SMP establishes a system of use regulations consistent with WAC 173-26-241 along with related environment designation provisions that accommodate preferred and priority uses, protect property rights while implementing the policies of the SMA, reduce use conflicts, and assure no net loss of shoreline ecological functions.

*Shorelines of Statewide Significance (WAC 173-26-251)*

RCW 90.58.020 specifically calls out Shorelines of Statewide Significance (SSWS) for special consideration, declaring that “the interest of all of the people shall be paramount in the management” of these shorelines. One (1) shoreline of statewide significance - the Calawah River – as well as associated wetlands of the SSWS Bogachiel River are within City shoreline jurisdiction.

The SMP Guidelines in WAC 173-26-251 require that local master programs recognize the specific use preferences identified in the SMA and provide for “*optimum implementation*” of the statutory policy. This is done by providing SMP provisions that implement: (a) statewide interest, (b) preserve resources for future generations and (c) give preference to uses identified in RCW 90.58.020.

The SMP as a whole is consistent with the policies of RCW 90.58.020. Specifically, SMP 9 Shorelines of Statewide Significance including 9.1 Adoption of Policy and the order of preference, 9.2 Designation of SSWS for shorelines in Clallam County, and 9.3 Additional Policies for SSWS to ensure consistency with the Act and WAC 173-26-251, address these special considerations. Additionally, the provisions of SMP 3.2.5 Aquaculture Application Requirements for Cumulative Impact Analysis; 3.4.2 Forest Practices Regulation #2; 3.10.1 Signs Policy #1; and 4.5.1 In-stream & In-water Structures Policy #3 contribute to the optimum implementation of the SSWS statutory policy.

**Finding:** Ecology finds that the updated SMP has accurately identified SSWS within the City’s jurisdiction, is consistent with RCW 90.58.020 and WAC 173-26-251, and provides for optimum implementation of the statutory policy.

*Cumulative Impact Analysis (WAC 173-26-201(3)(d)(iii))*

Addressing no net loss of ecological functions is a critical element in any SMP update. Ecology rules require that “Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.”<sup>2</sup> A cumulative impacts analysis (CIA) documents how an SMP update addresses no net loss of ecological functions. The *Final Cumulative Impacts Analysis and No Net Loss Report* (CIA) was prepared by ESA in June 2017 as part of the joint effort for both City and County SMP update. The CIA presents review and analysis of current circumstances and shoreline ecological functions, potential impacts, reasonably foreseeable future shoreline uses, effects on shoreline functions, applicable SMP provisions, and development tracking & response.

Specific focus on WRIA 20 and the City of Forks is presented in Chapter 6 discussion of anticipated amount of future development, effect of proposed buffers on existing and new development, riparian vegetation impacts

---

<sup>2</sup> WAC 173-26-201(2)(c)

from new development, riparian buffers and forest cover, clearing for views and access, new shoreline modifications, and development in the floodplain and/or Channel Migration Zone (CMZ). Appendix A to the CIA provides a *Shoreline Checklist & Statement of Exemption Form* as a permit application and review tool for demonstrating project consistency with the SMP policies and regulations.

The CIA concludes that based on the current circumstances, reasonably foreseeable future development/use, and potential beneficial effects of established regulatory programs:

- The regulatory provisions of the SMP will be effective in preventing cumulative impacts on habitat, hydrology and water quality functions, provided they are effectively implemented; and
- Adoption and implementation of the updated SMP will achieve no net loss.

**Finding:** Ecology finds that the Final Cumulative Impact Analysis (CIA) provides an adequate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).

#### *Shoreline Use Analysis (WAC 173-26-201(3)(d)(ii))*

Current and future potential land uses and trends were analyzed to address the SMP Guidelines requirement to project future shoreline development, identify potential use conflicts and ensure preference is given to water-oriented uses, particularly preferred uses that are unique to or dependent upon a shoreline location.

The WRIA 20 ICR and the CIA present related parts of the analysis. Overall, residential development is the dominant shoreline use although the pattern is light and scattered, mostly located along the side of the shoreline closest to major roads, with few bridges and very little bank armoring. The mill on Lake Pleasant is the only industrial facility in SMP jurisdiction. Agricultural use is very limited with just a few small-scale cattle operations located along the shoreline.

The CIA identified nine (9) Analysis Areas in WRIA 20 with the greatest potential for future development within a 20-year planning horizon, including portions of the Calawah River and Elk Creek located in the City of Forks (shown below in red outline). Details are presented in the report's Table 5-29, including key findings such as:

- Limited potential for new development on vacant parcels and limited impacts to riparian areas due to intensified use on residential lots (i.e. redevelopment resulting in more impervious surface, vegetation impacts);
- There is no potential for subdivision to create new lots within the City's shoreline jurisdiction, as all shoreland areas are generally mapped as floodplain and/or CMZ;
- Total of 12 existing parcels within the City of Forks shoreline jurisdiction:
  - 3 are developed (residential) and 9 are undeveloped;
  - All 12 parcels include areas that extend outside of shoreline jurisdiction;
  - Only 1 has existing structures within the proposed buffers;
  - None of the vacant lots would be dimensionally constrained by proposed SMP buffers;
  - No lots occur entirely within the mapped CMZ/floodplain area; and





- Only one parcel identified with potential for new shoreline armoring.

**Finding:** Ecology finds that current patterns, projected trends, SMA preferred uses and the potential for use conflicts have been adequately considered consistent with WAC 173-26-201 (2)(d) and WAC 173-26-201 (3)(d)(ii).

*Restoration Plan (WAC 173-26-201(c) and (f))*

Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions (WAC 173-26-201 (2)(c) and (f)). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering such actions. These are anticipated to occur through a combination of public and private programs and actions.

The restoration planning component of the SMP is focused on voluntary mechanisms, not regulatory provisions. Clallam County prepared a *Countywide Shoreline Restoration Plan* (ESA, Draft August 2013; Final February 2016), based on ONRC's early Draft WRIA 20 Restoration Plan (May 2011), and information gathered in the Inventory & Characterization Reports, which identified programmatic and site specific restoration opportunities organized by WRIA and river systems. The County's restoration planning is focused on restoration goals and objectives, existing plans, opportunities to improve impaired/degraded shoreline ecological functions, and implementation strategies such as funding, technical assistance, voluntary actions, environmental indicators/benchmarks, timelines, priorities, and potential partners. Specific reaches identified by Clallam County located within the City of Forks include: Calawah 10, Calawah 20, Elk Creek 10, and Mill Creek.

The City prepared a supplemental *Forks Shoreline Restoration Plan* (2021) as an addendum that provides greater details for shorelines in the City, FUGA, and other nearby areas of the County where restoration actions would benefit City shorelines. This supplemental plan identified the following restoration efforts and on-going projects:

Project	Project Description	Status (2021)	Notes
Culvert removal/replacement	Culvert removal/replacement along tributaries to Mill Creek.	On-going	Restoring fish passages.
North Pacific Coast Lead Entity Group	Maintain and improve ecosystem productivity and genetic diversity for all salmonid species in the North Pacific Coast area.	On-going	The City of Forks is a primary participant in the North Pacific Coast Lead Entity.
Warner Creek Monitoring	Annual alternative school student macro-invertebrate sampling at confluence of Warner and Mill Creek.	On-going	On-going since 1997. As of 2019, large diversity of macro-invertebrates.
Mill Creek Water Quality	Annual water quality samples near the mill on Mill Creek.	On-going	
WRIA 20 Watershed Management Plan	WRIA 20 Watershed Management Plan	Completed	Completed participation in 2011.

**Finding:** Ecology finds that the Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).

#### *Periodic Review (WAC 173-26-090(2) and (3))*

As the City awaited final approval of the Clallam County SMP, the City's statutory deadline for an SMP Periodic Review was approaching. The periodic review is distinct from the comprehensive updates required by RCW 90.58.080(2). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of Ecology guidelines. By contrast, the periodic review addresses changes in requirements of the act and guidelines since the comprehensive update or the last periodic review; changes for consistency with revised comprehensive plans and regulations; and changes deemed necessary to reflect changed circumstances, new information or improved data. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans.

The City continued implementing the existing Public Participation Strategy to provide additional public involvement opportunities including City Planning Commission and City Council meetings, advertised and open to the public. The City prepared the required Periodic Review Checklist to document its review and analysis of the presumed final version Clallam County SMP, anticipated to include all of Ecology's March 2021 Conditional Approval required & recommended changes. Ecology's Attachment A Findings and Conclusions specifically notes *"Ecology completed our review and consistency determination based upon all current statutory and rule requirements, which includes all those listed on the periodic review checklist updated through June 2020. We anticipate that the County may finalize their SMP periodic review with a "finding of adequacy" determination later this year."*

City Council conducted another public hearing on June 28, 2021 on the combined comprehensive update and periodic review amendment. One comment submittal was received (Quileute Tribe) in support of the City's adoption of the Clallam SMP, and specific provisions that address invasive weed management, and protective buffer zones along rivers/creeks to provide shade and filter runoff.

No amendments to the Clallam County SMP were proposed as a result of the City's periodic review. The ordinance adopting the County's SMP for application to City shorelines included language finding "...that the final Clallam SMP was adequate and no action was needed for further amendment" (Ord. 656 Section 2.D.2, p.5).

***Finding:*** Ecology finds that, consistent with WAC 173-26-090, the City of Forks is required to periodically review their SMP on or before June 30, 2020 and every eight years thereafter. These reviews are required to ensure local governments address changes in requirements of the SMA and guidelines requirements since the comprehensive update, changes for consistency with revised comprehensive plans and regulations, along with any changes deemed necessary to reflect changed circumstances, new information or improved data. Ecology finds that in adopting the Clallam County SMP, the City's substantive requirements for periodic review have been met.

#### *Other Studies or Analyses supporting the SMP update*

Ecology reviewed the following documents prepared by the County and/or City in support of the SMP amendment:

- March 2011 Public Participation Strategy
- July 2011 Consistency Review
- May 2012 WRIA 20 Inventory and Characterization Report
- February 2016 Countywide Shoreline Restoration Plan
- June 2017 Cumulative Impacts Analysis and No Net Loss Report.
- October 2018 SMP Submittal Checklist
- June 2021 City of Forks Periodic Review Checklist
- Forks Shoreline Restoration Plan (2021)

## Consistency with SMA and SMP Guidelines

### *Consistency with Chapter 90.58 RCW*

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

### *Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)*

The proposed amendments have been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions). This includes review of a SMP Submittal Checklist, which was completed by the County and provided by the City, and an SMP Periodic Review Checklist completed by the City.

### *Consistency with SEPA Requirements*

The City submitted evidence of compliance with RCW 43.21C, the State Environmental Policy Act (SEPA) in the form of the County's August 10, 2017 SEPA checklist, including non-project supplement, and October 16, 2017 Determination of Non-Significance (DNS) for the proposed SMP amendment. The City issued a companion DNS on December 8, 2017 as an addendum to, and in concurrence with, the County DNS. The City published a legal ad in the *Forks Forum* on December 14, 2017 and invited comment for 60 days. Ecology did not comment on the DNS.

## CONCLUSIONS OF LAW

---

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's comprehensive SMP update proposal is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020 and WAC 173-27.

Ecology concludes that the proposed SMP satisfies the criteria for approval of amendments found in WAC 173-26-201(1)(c). This includes a conclusion that the proposed SMP will not foster uncoordinated and piecemeal development of the state's shorelines (WAC 173-26-201(1)(c)(i)), and contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program, per the standards of WAC 173-26-201(2)(c) and WAC 173-26-186(8)).

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that the SMP provides a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that the City has chosen to exercise its option pursuant to RCW 90.58.030(2)(d)(i) and (ii) to increase shoreline jurisdiction to include both i) the full extent of the 100-year floodplain; and ii) buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond minimum SMA jurisdiction the buffer shall be regulated by the SMP.

Ecology concludes those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy - RCW 90.58.090(5).

Ecology concludes that the City complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update process.

Ecology concludes that the City has complied with the purpose and intent of the local update process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's SMP submittal to Ecology, for both the comprehensive update and periodic review, was complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-100, WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring an SMP Submittal Checklist.

Ecology concludes that we have complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes the City's final legislative action serves to complete the comprehensive SMP update required by RCW 90.58.080(2).

Ecology concludes that the City has reviewed applicable state laws and rules adopted during the local SMP drafting and adoption process. Ecology concludes the City's final legislative action in completing the comprehensive SMP update required by RCW 90.58.080(2) will therefore also serve to meet the City's obligation to conduct a periodic review of the SMP at RCW 90.58.080(4).

## **DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the City's proposed SMP is consistent with Shoreline Management Act policy, the applicable guidelines, and the implementing rules. With this approval, Ecology affirms the City has completed both the comprehensive update under RCW 90.58.080(2) and the periodic review under RCW 90.58.080(4). Ecology approval of the proposed SMP is effective 14 days from Ecology's final action approving the amendment.